

Adulteration of the product was alleged in the information for the reason that a substance, to wit, milk, had been substituted wholly or in large part for the article cream. Misbranding was alleged for the reason that said product was a mixture of cream and milk and was offered for sale under the distinctive name of another article, to wit, cream, whereas said product was not cream.

On May 25, 1914, the defendant company entered a plea of guilty to the information and the court imposed a fine of \$20 and costs.

D. F. HOUSTON, *Secretary of Agriculture.*

WASHINGTON, D. C., *September 24, 1914.*

3423. Alleged misbranding of arrowroot biscuit. U. S. v. Empire Biscuit Co. Tried to the court and a jury. Verdict of not guilty by direction of the court. (F. & D. No. 4898. I. S. No. 37653-e.)

At the March term of the District Court of the United States for the Southern District of New York the United States attorney for the said district, acting upon a report by the Secretary of Agriculture, filed in the district court aforesaid an information against the Empire Biscuit Co., a corporation, New York, N. Y., alleging shipment by said company in violation of the Food and Drugs Act, on July 18, 1912, from the State of New York into the State of Massachusetts, of a quantity of arrowroot biscuit which were charged to have been misbranded. The product was labeled: "Empire Biscuit Co. Arrowroot. 28-30-32 Westerly Avenue. High Class Biscuit. Brooklyn, N. Y. 15½ lbs." Examination of a sample of the product by the Bureau of Chemistry of this department showed that it was composed mostly of wheat starch and a small amount of corn, and that not more than 1 per cent of arrowroot was present.

Misbranding of the product was alleged in the information for the reason that the product was misbranded and labeled so as to deceive and mislead the purchaser thereof, in that the words on the label thereof, "Arrowroot—High Class Biscuit," regarding the said article and the ingredients and substances contained therein, were false and misleading, in that said label would indicate that said article consisted of biscuits containing a sufficient quantity of arrowroot to give said biscuits arrowroot characteristics, whereas, in truth and in fact, said biscuits consisted for the most part of wheat starch and corn, and a very small amount of arrowroot, the said amount being negligible and not sufficient to impart to said biscuits any of the characteristics of arrowroot.

On June 4, 1914, the case having come on for trial before the court and a jury, after the submission of evidence by the Government the defendant company rested its case and moved the court to dismiss. A verdict of not guilty was thereupon directed as follows by the court (Mayer, J.):

"The stenographer may note that the verdict about to be directed is not to be taken as a precedent on the question of the percentage of arrowroot. But on the evidence in this case there is nothing which will, in the court's opinion, sustain a verdict.

"The court directs a verdict in favor of the defendant, and the clerk will take the verdict."

D. F. HOUSTON, *Secretary of Agriculture.*

WASHINGTON, D. C., *September 24, 1914.*

3424. Adulteration and misbranding of cream. U. S. v. Albert W. Anderson. Plea of guilty. Fine, \$20 and costs. (F. & D. No. 4970. I. S. No. 36883-e.)

On December 3, 1913, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against

Albert W. Anderson, Ewing, Mo., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about July 23, 1912, from the State of Missouri into the State of Illinois, of a quantity of cream which was adulterated and misbranded. The product was labeled: "To A. L. Brinkman, Quincy, Ill. From A. W. Anderson, Ewing, Mo." (On slip of paper attached to can) "Ewing, Mo., July 23, 1912, A. L. Brinkman. We send you eight (8) gallons of cream today. Will send again Friday or Thursday. A. W. Anderson."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Fat by Röse-Gottlieb (per cent)-----	15.44
Fat by Babcock (per cent)-----	16.5
Specific gravity at 60° F-----	1.018
Formaldehyde: Negative.	
Color: Negative.	

Adulteration of the product was alleged in the information for the reason that it was sold by said defendant under a contract with the purchaser as cream containing from 20 to 22 per cent of fat; and that cream, as the same is known and understood in the trade and by persons dealing in and using the same, contains not less than 18 per cent of milk fat; and that said product was adulterated in that milk containing approximately 16.5 per cent of butter fat, and a materially less quantity than 18 per cent, had been substituted wholly or in large part for the cream which said article purported to be; and, further, in that a substance, to wit, milk, had been substituted wholly or in large part for the genuine article, to wit, cream; and said product, when so shipped and transported, contained only about 16.5 per cent of butter fat and a materially less quantity than 18 per cent. Misbranding was alleged for the reason that the product was a mixture of cream and milk, and contained only about 16.5 per cent of fat and a materially less quantity than 18 per cent of fat, and was an imitation of and was offered for sale under the distinctive name of another article, to wit, cream.

On May 25, 1914, the defendant entered a plea of guilty to the information and the court imposed a fine of \$20 and costs.

D. F. HOUSTON, *Secretary of Agriculture.*

WASHINGTON, D. C., *September 24, 1914.*

3425. Misbranding of fruit puddine. U. S. v. The Fruit Puddine Co. (Inc.).
Plea of guilty. Fine, \$40. Two counts of information nolle
prossed. (F. & D. No. 1069. I. S. Nos. 2820-b, 2823-b, 2824-b.)

On April 16, 1910, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information in 10 counts against the Fruit Puddine Co. (Inc.), Baltimore, Md., alleging shipment by said company in violation of the Food and Drugs Act on November 21, 1908, from the State of Maryland into the State of Ohio of a quantity of fruit puddine of assorted flavors, which was misbranded. One portion of the consignment was labeled: "Fruit Flavored Puddine (Trade Mark Registered) Lemon. Fruit Puddine Co., Baltimore, Md., U. S. A. Fruit Puddine Co., Baltimore, Md., U. S. A." (Picture of dish of fruit is also shown.) Another part of the consignment was labeled: "Fruit Flavored Puddine (Trade Mark Registered) Orange. Fruit Puddine Co., Baltimore, Md., U. S. A. Fruit Puddine. Fruit Puddine Co., Baltimore, Md., U. S. A." (Picture of fruit.) Balance of consignment was labeled: "Fruit Flavored Puddine (Trade Mark Registered) Rose Vanilla.